

# HOUSE BILL REPORT

## HB 1325

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**As Reported by House Committee On:**  
Transportation

**Title:** An act relating to the regulation of personal delivery devices.

**Brief Description:** Regulating personal delivery devices.

**Sponsors:** Representatives Kloba, Steele, Walen, Fey and Slatter.

**Brief History:**

**Committee Activity:**

Transportation: 1/28/19, 2/27/19 [DPS].

**Brief Summary of Substitute Bill**

- Establishes a regulatory framework for the operation of personal delivery devices, which are automated devices intended to deliver property via sidewalks and crosswalks.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Boehnke, Chambers, Chapman, Dent, Doglio, Dufault, Entenman, Eslick, Goehner, Gregerson, Irwin, Kloba, Lovick, McCaslin, Mead, Orcutt, Ortiz-Self, Paul, Pellicciotti, Ramos, Riccelli, Shea and Van Werven.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Young, Assistant Ranking Minority Member.

**Staff:** Mark Matteson (786-7145).

**Background:**

Autonomous Unmanned Vehicle Delivery Systems.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Unmanned vehicle systems, including autonomous systems, have been developed over time for various purposes, including governmental, research-related, hobby-related, and commercial purposes. Autonomous systems are machines capable of performing tasks in the world by themselves, without explicit human control. Examples range from autonomous helicopters to robotic vacuum cleaners. In recent years, there have been developments in the field of automated ground-based delivery systems.

Several jurisdictions, including several states and the District of Columbia, have adopted laws or regulations in recent years governing automated ground-based delivery devices. These laws and regulations have provided definitions and operational parameters for the devices, as well as modifications to the jurisdiction's rules of the road governing sidewalk use and crosswalk use. The laws have also typically excluded the devices from the definition of "motor vehicle," which eliminates the requirement that the device be subject to annual vehicle licensing requirements, for example.

#### Rules of the Road—Motor Vehicles and Other Users of Highways, Including Sidewalks and Crosswalks.

State law governs the use of highway rights-of-way and how motor vehicles must address other users. In general, motor vehicles have the right-of-way within the roadway. Pedestrians are required to obey traffic signals, including those for crosswalks. Pedestrians crossing a roadway at a point other than a crosswalk must yield the right-of-way to all vehicles upon the roadway. Motor vehicles turning into a driveway or alleyway must yield the right-of-way to bicyclists and pedestrians on a sidewalk or crosswalk. A bicyclist must yield the right-of-way to a pedestrian on a sidewalk or crosswalk. Mopeds may not be operated upon sidewalks. The operation of a motorized foot scooter or a class 3 electric-assisted bicycle on a sidewalk is not allowed, unless there is no other bicycle or pedestrian path alternative.

Violation of the rules of the road is a traffic infraction in most cases.

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#### **Summary of Substitute Bill:**

The operation of personal delivery devices (PDD or device) is authorized under certain conditions.

A PDD is an electrically powered, automated device weighing less than 120 pounds and intended primarily to transport property on a sidewalk or crosswalk at speeds of 6 miles per hour (mph) or less. The operation of the PDD is supported by a remote operator who may either monitor or exercise active control of the device.

A business may operate a PDD under the following conditions:

- The PDD travels only on sidewalks and crosswalks or, in areas where sidewalks are not provided, in areas where pedestrians are permitted to travel under law, as long as the adjacent roadway has a speed limit of 45 mph or less.

- For the period before July 1, 2021, prior approval is received by the jurisdiction governing the right-of-way containing the sidewalks and crosswalks upon which the PDD is intended to travel. In areas where PDDs were operated as of February 8, 2019, no prior approval is required.
- For the period beginning July 1, 2021, the business must receive an automated carrier permit from the Utilities and Transportation Commission (UTC) before operating a PDD within the state.
- The PDD operator is either actively monitoring or controlling the device.
- The business that operates the PDD maintains an insurance policy with a liability coverage of at least \$100,000 for damages arising from the operation of the device. The business must provide proof of the insurance to the regulatory authority before beginning operations.
- The business must report any incidents resulting in personal injury or property damage to the regulatory authority and to local law enforcement within 48 hours of the incident.
- The business registers an agent located in the state for the purposes of addressing traffic infractions and incidents involving PDDs operated by the business.
- The PDD has a unique identification number and a marker that includes the name and contact information of the business that operates the device.
- The PDD has a properly functioning braking system.
- The PDD has a flag pole of at least 48 inches in height.
- The PDD must emit an audible signal before overtaking and passing a pedestrian or bicyclist.
- If the PDD is to be operated between sunset and sunrise, the device has lights on its front and rear that are visible from 500 feet or more to a driver of a car with its headlights on.

A PDD may not be operated to transport hazardous material in a quantity and form that poses an unreasonable risk to health, safety, or property when transported in commerce. A PDD may not transport consumable alcohol.

A local government that governs the right-of-way containing the sidewalk or crosswalk upon which the PDD may travel may authorize or condition the operation of a PDD to some extent. Until July 1, 2021, the jurisdiction must authorize the operation of a PDD before a business may operate a PDD within the jurisdiction. Beginning July 1, 2021, the jurisdiction may prohibit the travel of a PDD within all or part of the jurisdiction's boundaries. In addition, at any time after the effective date of the bill, a local government may allow PDDs with higher maximum speeds or higher maximum weights to operate within the jurisdiction.

Beginning July 1, 2021, the UTC must regulate automated carriers, which are businesses that operate PDDs, with respect to equipment safety, safety of operations, and record retention. The UTC must require insurance coverage under the requirements of the bill and must investigate safety complaints related to automated carriers. The UTC may revoke any permit issued if it finds that the business operating the PDD violated the terms of the UTC's authority. The UTC must compile data regarding any reported incidents and regarding infractions involving businesses operating PDDs.

Beginning July 1, 2021, a business operating PDDs is disqualified from operating PDDs for a period of three years if, in the aggregate, the PDDs operated by the business are found to have caused two or more traffic infractions within a three-year period.

A PDD is excluded from the definition of "motor vehicle" and the definition of "vehicle," except with respect to certain rules of the road governing the use of sidewalks and crosswalks. In general, the operation of PDDs must adhere to the same rules of the road that apply to pedestrians, except that PDDs may not cross a roadway at a crossing other than at a marked crosswalk; at an unmarked crosswalk at an intersection; or at a crossing between curb ramps. A PDD must yield the right-of-way to a pedestrian or a bicycle on a sidewalk or crosswalk.

A violation of the terms of the regulations governing PDDs is a traffic infraction. The citation must be issued to the registered agent within Washington of the business that operated the PDD at the time the infraction occurred. The law enforcement agency issuing the notice of infraction must provide a copy of the notice to the regulatory authority.

### **Substitute Bill Compared to Original Bill:**

The substitute bill, as compared to the original bill:

- refers to a federal definition of "hazardous material," rather than providing a new definition;
- defines "regulating agency" as, for the period before July 2021, the public works department of the local jurisdiction that has authorized the operation of a PDD on its sidewalks and crosswalks and, for the period beginning July 2021, the UTC;
- until July 1, 2021, before the operation of a PDD may commence, requires the authorization by a local governmental jurisdiction that governs the rights-of-way containing the sidewalks and crosswalks upon which the device would travel unless, as of February 8, 2019, devices were being operated within a jurisdiction, in which case prior authorization is not required;
- beginning July 1, 2021, requires a new type of permit, called an automated carrier permit, from the UTC to operate PDDs anywhere in the state;
- requires the UTC to regulate automated carriers with respect to equipment safety, safety of operations, and record retention;
- allows local governments to condition the operation of PDDs within the jurisdiction, by allowing for greater maximum weight or higher maximum speed, or by prohibiting the operation of such devices altogether within all or part of the jurisdiction;
- allows the operation of PDDs, if there are no sidewalks, along the left side of the roadway facing traffic, provided that the adjacent roadway has a speed limit less than 45 mph;
- reduces the maximum allowable speed of a PDD to six mph;
- requires the eligible entity to provide proof of insurance to either the local government (before July 2021) or the UTC (beginning July 2021) before beginning operation of PDDs;
- requires the eligible entity to report any incidents resulting in personal injury or property damage within 48 hours of the incident to the regulating agency and to the local law enforcement agency;

- requires the eligible entity to register an agent within Washington for the purposes of addressing traffic infractions and incidents involving PDDs;
  - requires a PDD to have a flag pole of at least 48 inches in height;
  - requires the PDD to emit an audible sound when overtaking a pedestrian or bicyclist;
  - prohibits the transportation of consumable alcohol in a PDD;
  - requires law enforcement to issue notices of infraction to the registered agent in Washington and to report notices to the regulating agency;
  - allows the UTC to revoke a permit upon a finding that the eligible entity has violated the regulations governing automated carriers;
  - disqualifies an eligible entity from operating a PDD for three years if PDDs operated by the entity are found in the aggregate to have committed two or more traffic infractions; and
  - requires the UTC to compile data regarding infractions and incidents involving automated carriers.
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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect on July 1, 2016, except for sections 20 through 23, relating to the Utilities and Transportation Commission oversight responsibilities, which take effect on July 1, 2021.

**Staff Summary of Public Testimony:**

(In support) This is very exciting, almost like science fiction. The delivery device is kind of like a cooler on wheels, controlled remotely by artificial intelligence. It is programmed to get out of the way of pedestrians. This is a new technological way to accomplish everyday mundane tasks, such as the delivery of restaurant food, flowers, or books. This method is quick, nonpolluting, quiet, and does not take up space on the roadway. This sets up a framework that regulates the travel of these devices on sidewalks, including sideboards about interactions with pedestrians and bicyclists. There are concerns about speed and the delivery of alcohol that will be taken up in a forthcoming amendment.

This creates a system for the responsible operation of PDDs, by safeguarding the wellbeing of the public, while at the same time permitting the development and evolution of this smart-cities technology. The PDDs are autonomous electric low-speed, low-mass devices for delivery of property from local businesses to consumers, all facilitated by smartphone technology. These devices are intended to address the current inefficiencies in last-mile delivery, which is recognized as the most energy intensive, most environmentally harmful, and the most expensive part of the logistics chain. Under current state law, these self-propelled devices could be construed as motor vehicles and thus prohibited on sidewalks and crosswalks. The PDDs are equipped with proprietary software and other technology that allows them to avoid property, pedestrians, and bicyclists and to navigate the urban environment on sidewalks and crosswalks. The PDDs are equipped with technology that enable remote monitoring. There are currently 12 companies in the world that have similar

devices under development. Starship's PDDs have encountered more than 15 million people and have traveled over 100,000 miles. This does not specify the precise type of technology and is similar to legislation passed in other states. The PDDs offer promise for sustaining e-commerce, lowering congestion, and helping the environment.

(Opposed) None.

(Other) The root of the concern of the Association of Washington Cities (AWC) is the responsibility of the AWC members to effectively manage public rights-of-way (ROW), including sidewalks. The bill appears to shift the burden of active management of ROW onto cities. There are also some practical questions: which jurisdiction is responsible for ensuring responsibilities are met, like proper automated driving technology, insurance, and so forth? The AWC has questions about how these devices would be incorporated into the current cities' regulatory responsibilities. The AWC would like to have a thoughtful discussion on ROW management for this bill, for electric scooters, and any other new technologies coming along.

The Washington State Department of Transportation would like to see some additional safety considerations. These devices should emit an audible warning when approaching pedestrians and have a flag for visibility. The bill should clarify an agency's ability to regulate the devices on paved and unpaved trails.

**Persons Testifying:** (In support) Representative Kloba, prime sponsor; and Chelsea Hager and David Catania, Starship Technologies.

(Other) Logan Bahr, Association of Washington Cities; and Mike Dornfield, Washington State Department of Transportation.

**Persons Signed In To Testify But Not Testifying:** None.